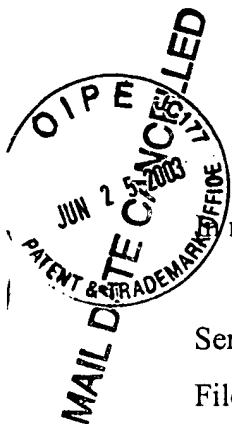




**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

12 Petition
7-16-03
Sh



re: Application of:

Ricky Amos

Group Art Unit: 2815

Serial No: 09/ 995,031

Examiner: Matthew Landau

Filed: Nov. 29, 2001

For: High Temperature Processing Compatible Metal Gate Electrode for FETs and Method for Fabrication

Attorney Docket No.: YOR 920010633US1 (062)

Certificate of Mailing

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: June 23, 2003

[Signature]
Kathy Dixon

TECHNOLOGY CENTER 2800

JUN 30 2003

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PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

802.03

Sir:

The Appellants hereby petition the Commissioner that the refusal of entering the claim amendments made in the Request for Reconsideration dated 03/24/2003 is improper when such amendments would present the rejected claims in better form for consideration on appeal under 37 CFR § 1.116.

The refusal for entering of the claim amendments to independent claims 1 and 10 presented in the Request for Reconsideration filed on or about 03/24/2003 is improper and must be reversed.

In the claim amendments, the Appellants further narrowed independent claims 1 and 10 to recite a metal oxide semiconductor device that includes a gate formed of a metal selected from the group consisting of Re and Rh on top of a gate dielectric layer. This represents an amendment from the original claims which recite a gate formed of a metal selected from the group consisting of Re, Rh, Ir and Ru on top of the gate dielectric layer. It is the Appellants belief that such amendment would place the application in condition for allowance in view of the Maria et al and Inumiya et al references. It is the Appellants further belief that such claim amendments are allowed under 37 CFR §1.116 as “amendments presenting rejected claims in better form for consideration on appeal may be admitted”.

The Examiner’s refusal for entering of the claim amendments filed on or about 3/24/2003 is improper and must be reversed.

While the Examiner argued in the Advisory Action dated 4/3/2003 that “the proposed amendments will not be entered because they raise new issues that would require further consideration and/or search” and “they are not deemed to place the application in better form for

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appeal by materially reducing or simplifying the issues for appeal”, the Appellants respectfully submit that such amendments would not necessitate a new search since the remaining two elements of Re and Rh in the claims have been presented and examined by the Examiner in the previous Office Action and furthermore, the deletion of two elements (Ir and Ru) would reduce and simplify the issues for appeal.

The Appellants respectfully submit that the issue of using Re and Rh as the gate electrode material was previously considered by the Examiner and therefore, does not present a new issue and does not require a new search.

The Appellants therefore submit that the amendments made to claims 1 and 10 in the Request for Reconsideration mailed on or about 3/24/2003 should be entered to that the rejected claims can be presented in better form for consideration in the Appeal Brief filed concurrently with this petition. The Commissioner is authorized to charge Deposit Account No. 50-0510 the fee for this petition and any other fees which may be required.

Respectfully submitted,

By: 

Randy W. Tung

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RWT\kd